



## DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

September 15, 2008

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Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW.  
Washington, DC 20554

**Re: WT Docket No. 08-165**

Dear Mr. or Madam Secretary:

The City of SeaTac appreciates the Federal Communications Commission (FCC) providing the opportunity to comment on the Petition for Declaratory Ruling as filed by the CTIA – The Wireless Association (CTIA).

It is our understanding that CTIA's petition asks the FCC to take the following actions:

1. Establish a fixed deadline of forty-five (45) days from filing for zoning authorities (local governments) to take action on applications that add antennas to existing wireless communication facilities; and establish a fixed deadline of seventy-five (75) days from filing for zoning authorities to take action on applications for new cellular tower/antenna applications;
2. Declare that if a zoning authority fails to act on an application within the above time frames, the application shall be "deemed granted;"
3. Preempt a zoning authority from considering the presence of service by other carriers in evaluating an additional carrier's application for an antenna site; and
4. Preempt a zoning authority from automatically requiring a wireless service provider to obtain a variance before siting facilities.

We are most concerned with the **first two proposals** cited above. While we agree that local governments should act in good faith to process applications in a timely manner, establishing arbitrary deadlines is counterproductive and undermines the authority of local governments to regulate growth and development in their communities. There are always going to be cases where thorough review of, and addressing all of the issues related to some applications, will inevitably take more time. Declaring that any application be "deemed granted" if an application takes longer to review, even in good faith, seems patently unfair to local communities.

**Mayor**  
*Ralph Shape*

**Deputy Mayor**  
*Gene Fisher*

**Councilmembers**  
*Chris Wythe*  
*Terry Anderson*  
*Tony Anderson*  
*Joe Brennan*  
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**City Clerk**  
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Another point that makes this proposal particularly troubling is that there is no requirement for the applicant to act in good faith. It is entirely possible to imagine a situation where an applicant might purposefully submit an incomplete application, and allow the deadline to arrive while stonewalling the local government's attempt to obtain the information necessary to make a decision on the application. This scenario would allow the applicant to have his/her application "deemed granted" while preventing the local government from exercising its legitimate authority to regulate the wireless facility to protect the public health safety and welfare.

The CTIA's petition refers to a number of cases where applications for wireless facilities were significantly delayed, and we recognize that these situations are problematic for the industry. At the same time, however, we feel strongly that penalizing all local governments by establishing arbitrary deadlines as proposed, and completely removing the local government's regulatory authority in cases where the deadlines cannot be met, tips the balance much too far to the other side.

***The City of SeaTac respectfully requests that the Commission reject these related proposals.***

Regarding the **third proposal** cited above, we recognize that local governments may not "prohibit or have the effect of prohibiting the provision of personal wireless services." However, this proposal appears to have the effect of undermining local authority to reasonably regulate the locating of facilities where a service provider may already have facilities in a jurisdiction.

***The City of SeaTac respectfully requests that the Commission reject this proposal.***

Regarding the fourth proposal cited above, it should be noted that many local governments, including the City of SeaTac, do not automatically require a variance before siting facilities. SeaTac's regulations provide a process that is streamlined for collocation and additions to existing facilities, and more rigorous for new towers. Under Washington State law, there is a 90 day limit for processing applications for wireless communication facilities, once the application is deemed to be complete.

Again, we appreciate the opportunity to comment on this matter. If you have questions or need clarification regarding any of the comments contained in this letter, please contact me at (206) 973-4830 or [sbutler@ci.seatac.wa.us](mailto:sbutler@ci.seatac.wa.us).

Sincerely,



Stephen C. Butler, FAICP  
Director of Planning and Community Development

C: SeaTac City Council  
Craig Ward, City Manager  
Todd Cutts, Assistant City Manager